

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE)	
)	
v.)	ID No. 0607013529
)	
JOHN MILLER,)	
)	
Defendant.)	

Submitted: November 23, 2010
Decided: January 21, 2011

On Defendant's *Pro Se* Motion for Postconviction Relief. DENIED.

ORDER

Ipek K. Medford, Esquire, Department of Justice, 820 North French Street,
Wilmington, Delaware 19801.

John Miller, James T. Vaughn Correctional Center, 1181 Paddock Road, Smyrna,
Delaware 19977. *Pro se.*

CARPENTER, J.

This 21st day of January, 2011, upon consideration of Defendant's Motion for Postconviction Relief, it appears to the Court that:

1. On November 14, 2010, John Miller ("Defendant") filed a *pro se* Motion for Postconviction Relief, his second, pursuant to Superior Court Criminal Rule 61 ("Rule 61"). Defendant asserts that he suffers from Bipolar Disorder, which was undiagnosed at the time of his conviction and sentence, and asks the Court to resentence him in light of his mental illness. For the reasons set forth below, Defendant's Motion for Postconviction Relief is DENIED.
2. On December 5, 2006, the Defendant pled guilty to one count of Terroristic Threatening and two counts of Misuse of Prisoner Mail. He was sentenced on March 16, 2007 as a habitual offender to a total of five years incarceration, followed by decreasing levels of supervision. Defendant's conviction and sentence were affirmed on appeal to the Supreme Court. In February 2008, Defendant filed his first motion for postconviction relief, in which he asserted that he was coerced into accepting a plea offer. This motion was denied as procedurally barred and without merit.
3. Delaware Superior Court Criminal Rule 61(b)(2) requires that the motion for postconviction relief "specify all the grounds for relief which are available to the movant and of which the movant has or, by the exercise of reasonable diligence, should have knowledge, and shall set forth in

summary form the facts supporting each of the grounds....”¹

4. Rule 61(d)(4) allows the Court to summarily dismiss a motion for postconviction relief “if it plainly appears from the motion for postconviction relief and the record of prior proceedings in the case that the movant is not entitled to relief...”²
5. Rule 61 was intended to provide prisoners the right to attack collaterally their sentences in the court where they were originally tried.³ The purpose of Rule 61 is to afford a remedy in lieu of *habeas corpus* and *coram nobis* to the defendant who claims that his conviction was obtained or his sentence imposed in violation of his constitutional guarantees.⁴ In other words, Rule 61 “requires a legal challenge to the conviction.”⁵
6. Defendant here is not collaterally attacking his judgment and asserts no legal challenge to the validity of his conviction. Rather, Defendant appears to be seeking a modification of his sentence, for which a motion for postconviction relief is not the appropriate vehicle. Accordingly, the motion is summarily denied.

IT IS SO ORDERED.

/s/ William C. Carpenter, Jr.
Judge William C. Carpenter, Jr.

¹ Del.Super.Ct.Crim. R. 61(b)(2).

² Del.Super.Ct.Crim.R. 61(d)(4).

³ *Curran v. Wooley*, 101 A.2d 303, 307 (Del. Super. 1953).

⁴ *Johnson v. State*, 280 A.2d 712, 713 (Del. 1971).

⁵ *State v. Lewis*, 797 A.2d 1198, 1200 (Del. 2002).